

BRIAN M. BOYNTON
Acting Assistant Attorney General

ALEXANDER K. HAAS
Branch Director

DIANE KELLEHER
BRAD P. ROSENBERG
Assistant Branch Directors

ZACHARY A. AVALLONE (SBN 295545)

ELLIOTT M. DAVIS

STEPHEN EHRLICH

STEPHEN L. KERKES

JOHN ROBINSON
ALEXANDER V. SVERDJOV

ALEXANDER V. S.
M ANDREW ZEE

M. ANDREW ZEE
Trial Attorneys
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, DC 20005
Phone: (202) 514-2706
E-mail: zachary.a.avallone@usdoj.gov

Attorneys for Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

NATIONAL URBAN LEAGUE, *et al.*,

Case No. 5:20-cv-05799-LHK

Plaintiff,

NOTICE

V.

Hearing Date: N/A

Time: N/A

Judge: Hon. Lucy H. Koh

Defendants.

¹ Pursuant to Federal Rule of Civil Procedure 25(d), Acting Secretary of Commerce Wynn Coggins is automatically substituted as a Defendant in her official capacity for former Secretary of Commerce Wilber Ross, and Acting Director of the Census Bureau Dr. Ron Jarmin is automatically substituted as a Defendant in his official capacity for former Director Dr. Steven Dillingham.

NOTICE

Defendants respectfully notify the Court and the Plaintiffs that, on January 20, 2021, President Joseph R. Biden, Jr. signed an Executive Order titled “Ensuring a Lawful and Accurate Enumeration and Apportionment Pursuant to the Decennial Census.” Although the Executive Order has not yet been published in the Federal Register, the full text is available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-ensuring-a-lawful-and-accurate-enumeration-and-apportionment-pursuant-to-decennial-census/>, and is also attached to this notice as Exhibit 1.

The Executive Order revokes Executive Order 13880 and the Presidential Memorandum of July 21, 2020. *See* Section 5. The Executive Order states that “it is the policy of the United States that reapportionment shall be based on the total number of persons residing in the several States, without regard for immigration status.” Section 2. To effectuate that policy, Section 3 of the Order instructs the Secretary of Commerce to “report the tabulation of total population by State that reflects the whole number of persons whose usual residence was in each State as of the designated census date in section 141(a) of title 13, United States Code, without regard to immigration status.” The Executive Order further directs the Secretary to “use tabulations of population reflecting the whole number of persons whose usual residence was in each State as of the census date, without regard to immigration status, in reports provided to the Governor and officers or public bodies having responsibility for legislative apportionment or districting of each State under section 141(c) of title 13, United States Code.”

Section 4 of the Executive Order also instructs the Secretary to “take all necessary steps, consistent with law, to ensure that the total population information presented to the President and to the States is accurate and complies with all applicable laws.”

DATED: January 21, 2021

Respectfully submitted,

BRIAN M. BOYNTON
Acting Assistant Attorney General

1 ALEXANDER K. HAAS
2 Branch Director

3 DIANE KELLEHER
4 BRAD P. ROSENBERG
5 Assistant Branch Directors

6 /s/ Zachary A. Avallone
7 ZACHARY A. AVALLONE (SBN 295545)
8 ELLIOTT M. DAVIS
9 STEPHEN EHRLICH
10 JOHN ROBINSON
11 ALEXANDER V. SVERDLOV
12 M. ANDREW ZEE
13 Trial Attorneys
14 U.S. Department of Justice
15 Civil Division, Federal Programs Branch
16 1100 L Street NW
17 Washington, DC 20005
18 Phone: (202) 514-2706
19 E-mail: zachary.a.avallone@usdoj.gov

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21 *Attorneys for Defendants*
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